

FINAL REGULATION ORDER

Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, and Equipment

Note: ~~Strikeout~~ indicates deleted text; Underline indicates inserted text.

Amend section 2405(c)(10), title 13, California Code of Regulations, to read as follows:

§ 2405. Defects Warranty Requirements for 1995 and Later Small Off-Road Engines

(c)

- (10) Add-on or modified parts that are not exempted by the Air Resources Board may not be used. ~~The~~ Such use of any non-exempted add-on or modified parts shall be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of ~~such an~~ non-exempted add-on or modified part.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102 and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102, 43104, 43150-43154, 43205.5 and 43210-43212, Health and Safety Code.

Amend section 2425(c)(10), title 13, California Code of Regulations, to read as follows:

§ 2425. Defects Warranty Requirements for 1996 and Later Heavy-Duty Off- Road Diesel Cycle Engines

(c)

- (10) Add-on or modified parts, as defined in Section 1900 ~~(B)~~(b)(1) and ~~(B)~~(b)(10), Title 13, that are not exempted by the Air Resources Board may not be used. ~~The~~ Such use of any non-exempted add-on or modified parts shall be grounds for disallowing a warranty claim made in accordance with this article. The engine manufacturer shall not be liable under this article to warrant failures of warranted parts caused by the use of ~~such an~~ non-exempted add-on or modified part.

Note: Authority cited: Sections 39600, 39601, 43013, 43018, 43101, 43102, and 43104, Health and Safety Code. Reference: Sections 43013, 43017, 43018, 43101, 43102 and 43205.5, Health and Safety Code.

Adopt new sections: 2470, 2471, 2472, 2473, 2474, 2475, and 2476, title 13, California Code of Regulations, to read as follows:

(Note: The entire text of sections: 2470, 2471, 2472, 2473, 2474, 2475, and 2476, set forth below is new language proposed to be added to the California Code of Regulations.)

Article 7: Certification Procedures for Aftermarket Parts for Off-Road Vehicles, Engines, Equipment

§ 2470. Applicability.

This article shall apply to all aftermarket parts which are sold, offered for sale, or advertised for sale for use on off-road vehicles, engines, or equipment which are subject to California or federal emission standards.

Note: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code; Sections 27156, 38390, 38391, and 38395, Vehicle Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, and 43018, Health and Safety Code.

§ 2471. Definitions.

(a) The definitions in Section 1900(b), Chapter 3, Title 13 of the California Code of Regulations shall apply with the following additions:

(1) “All-Terrain Vehicle” means any motorized off-highway vehicle 50 inches (1270 mm) or less in overall width, with an unladen dry weight of 600 pounds (275 kg) or less, designed to travel on four low pressure tires, having a seat designed to be straddled by the operator and handle-bars for steering control, and intended for use by a single operator and no passengers. The vehicle is designed to carry not more than 350 pounds (160 kg) payload, excluding the operator, and is powered by an internal combustion engine. Width and unladen weight shall be exclusive of accessories and optional equipment. A go-kart, golf cart or specialty vehicle is not, for purposes of this regulation, to be classified as an all-terrain vehicle. An all-terrain vehicle that is not used exclusively in competition/racing events in a closed course is not a competition/racing vehicle for purposes of these regulations.

(2) “Alternate Fuel” means any fuel that will reduce non-methane hydrocarbons (on a reactivity-adjusted basis), NO_x, CO, and the potential risk associated with toxic air contaminants as compared to gasoline or diesel fuel and would not result in increased deterioration of the engine. Alternate fuels include, but are not limited to, methanol, ethanol, liquefied petroleum gas, compressed natural gas, and electricity.

(3) “Alternative fuel” refers to liquefied petroleum gas, natural gas, alcohol, and alcohol/gasoline fuels.

(4) An “alternative fuel conversion system” is a package of fuel, ignition, emission control, and engine components that are modified, removed, or added during the process of modifying a vehicle/engine/equipment to operate on an alternative fuel and to perform at an emission rate lower than or equal to the rate to which the engine family was originally certified.

(5) “Confirmatory testing” means an ARB directed follow-up emissions test and inspection of the test engine or test vehicle that had been used by the manufacturer to obtain test data for submittal with the certification application. The emissions tests can be conducted at ARB or contracted out facilities or at the manufacturer’s facility.

(6) “Conventional fuel” means gasoline or diesel fuel.

(7) “Conversion system” is a package of fuel, ignition, emission control, or engine components that are modified, removed, or added during the process of modifying an engine to operate at an emission rate lower than or equal to the rate to which the engine family was originally certified.

(8) “Conversion system manufacturer” refers to a person who manufactures or assembles a conversion system for sale in California, requests and is granted the Executive Order certifying the conversion system.

(9) “Diesel Cycle Engine” means a type of engine with operating characteristics significantly similar to the theoretical diesel combustion cycle. The primary means of controlling power output in a diesel cycle engine is by limiting the amount of fuel that is injected into the combustion chambers of the engine. A diesel cycle engine may be petroleum-fueled (i.e. diesel-fueled) or alternate-fueled.

(10) “Dual fuel” refers to a conversion system which utilizes both an alternative fuel and a conventional fuel without further hardware changeover required.

(11) “Emission Control System” includes any component, group of components, or engine modification that controls or causes the reduction of substances emitted from an engine.

(12) “Engine Family” is a subclass of a basic engine based on similar emission characteristics. The engine family is the grouping of engines that is used for the purposes of certification.

(13) “Executive Officer” means the Executive Officer of the Air Resources Board or his or her authorized representative.

(14) “Exhaust Emissions” means substances emitted into the atmosphere from any opening downstream from the exhaust port of an off-highway vehicle.

(15) “Fuel System” means the combination of any of the following components: fuel tank, fuel pump, fuel lines, oil injection metering system, carburetor or fuel injection components, evaporative controls and all fuel system vents.

(16) “Gasoline spark-ignition marine engine” means any engine used to propel a marine vessel, which utilizes the spark-ignition (SI) combustion cycle.

(17) “Go-Kart” means any four wheeled, open framed vehicle equipped with an internal combustion engine. These vehicles are generally found at amusement parks and rented to patrons on a “pay-by-play” basis. These vehicles are generally designed for a single rider and run on a confined track. A go-kart that is not used exclusively in competition/racing events in a closed course is not a competition/racing vehicle for purposes of these regulations.

(18) “Golf Cart” means a vehicle used to convey equipment and no more than two persons, including the driver, to play the game of golf in an area designated as a golf course. Golf carts are designed to have an unladen weight of less than 1,300 pounds and carry not more than 100 pounds, excluding passengers, accessories and optional equipment. A golf cart is not used for grounds keeping or maintenance purposes.

(19) “Heavy-Duty Off-Road Diesel Cycle Engines” or “Engines” are identified as: diesel or alternate fuel powered diesel cycle internal combustion engines 175 horsepower and greater, operated on or in any device by which any person or property may be propelled, moved or drawn upon a highway, but are primarily used off a highway. The engines are designed for powering construction, farm, mining, forestry and industrial implements and equipment. They are designed to be used in, but are not limited to use in, the following applications: agricultural tractors, backhoes, excavators, dozers, log skidders, trenchers, motor graders, portable generators and compressors and other miscellaneous applications. Specifically excluded from this category are: (1) engines operated on or in any device used exclusively upon stationary rails or tracks; (2) engines used to propel marine vessels; (3) internal combustion engines attached to a foundation at a location; (4) transportable engines subject to District permitting rules which have been operated at a location for a period of one year or more on January 1, 1997; and (5) stationary or transportable gas turbines for power generation.

(20) “Inboard Engine” means a four stroke gasoline SI marine engine that is designed such that the propeller shaft penetrates the hull of the marine vessel while the engine and the remainder of the drive unit is internal to the hull of the marine vessel.

(21) “Installer” refers to a person who installs conversion systems on off-road vehicles/ engines/equipment.

(22) “Marine vessel” means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, as defined in 1 U.S.C. 3 (1992).

(23) “Model year” means the manufacturer’s annual production period which includes January 1 of a calendar year or, if the manufacturer has no annual production period, the calendar year.

(24) “Nonroad Engine or Off-Road Engine” has the meaning defined in 40 CFR 89.2.

(25) “Nonroad Equipment” has the meaning defined in 40 CFR 89.2.

(26) “Nonroad Vehicle” has the meaning defined in 40 CFR 89.2.

(27) “Off-Highway Recreational Vehicle Engines” or “Engines” are identified as: two-stroke or four-stroke, air-cooled, liquid-cooled, gasoline, diesel, alternative fuel powered engines or electric motors that are designed for powering off-road recreational vehicles and engines included in, but not limited to use in, the following: off-road motorcycles, all-terrain vehicles, golf carts, go-karts 25 hp and greater, and specialty vehicles. All engines and equipment that fall within the scope of the preemption of Section 209(e)(1)(A) of the Federal Clean Air Act, as amended, and as defined by regulation of the Environmental Protection Agency, are specifically not included within this category.

(28) “Off-Road Aftermarket Parts Manufacturer” means any person engaged in the manufacturing of add-on or modified parts, as defined in Section 1900(b), (1) and (10), Chapter 3, Title 13, California Code of Regulations, for off-road vehicles, engines or equipment subject to California or federal emission standards.

(29) “Off-Road Vehicle” or “Off-Road Equipment” means any non-stationary device, powered by an internal combustion engine or electric motor, used primarily off the highways, to propel, move, or draw persons or property including any device propelled, moved, or drawn exclusively by human power, and used in, but not limited to the following applications: Marine Vessels, Construction/Farm Equipment, Locomotives, Small Off-Road Engines, Off-Road Motorcycles, and Off-Highway Recreational Vehicles.

(30) “Off-Road Motorcycle” means any two or three wheeled vehicle equipped with an internal combustion engine and weighing less than 1,499 pounds. An off-road motorcycle is primarily designed for use off highways. These vehicles are mainly used for recreational riding on dirt trails but are not limited to this purpose. An off-road motorcycle that is not used exclusively in competition/racing events in a closed course is not a competition/racing vehicle for purposes of these regulations.

(31) “Otto Cycle Engine” means a type of engine with operating characteristics significantly similar to the theoretical Otto combustion cycle. The primary means of controlling power output in an Otto cycle engine is by limiting the amount of air and fuel which can enter the combustion chambers of the engine. Gasoline-fueled engines are Otto cycle engines.

(32) “Outboard engine” is a marine SI engine that, when properly mounted on a marine vessel in the position to operate, houses the engine and drive unit external to the hull of the marine vessel.

(33) “Personal watercraft engine (PWC)” are all gasoline SI marine engines that do not meet the definition of outboard engine, inboard engine or sterndrive engine, except that the Executive Officer in his or her discretion may classify a PWC as an inboard or sterndrive engine if it is comparable in technology and emissions to an inboard or sterndrive engine.

(34) “Scheduled Maintenance” means any adjustment, repair, removal, disassembly, cleaning, or replacement of components or system required by the manufacturer which is performed on a periodic basis to prevent part failure or equipment or engine malfunction, or anticipated as necessary to correct an overt indication of malfunction or failure for which periodic maintenance is not appropriate.

(35) “Small Off-Road Engines” or “Lawn and Garden and Utility Engines” are identified as: small two-stroke and four-stroke, air-cooled, liquid-cooled, gasoline and diesel and alternative fuel powered engines under 25 hp (18.6 kW). Title 13, CCR, Section 2401(18).

(36) “Specialty Vehicles” means any vehicle powered by an internal combustion engine having not less than 3 wheels in contact with the ground, having an unladen weight generally less than 2,000 pounds, which is typically operated between 10 and 35 miles per hour. The recommended bed payload for specialty vehicles is usually up to 2,000 pounds. Specialty vehicles are mainly used off of highways and residential streets. Applications of such vehicles include, but are not limited to, carrying passengers, hauling light loads, grounds keeping and maintenance, resort or hotel areas, airports, etc.

(37) “Sterndrive engine” means a four stroke marine SI engine that is designed such that the drive unit is external to the hull of the marine vessel, while the engine is internal to the hull of the marine vessel.

(38) “Test engine” means the engine or group of engines that a manufacturer uses during certification, production line and in-use testing to determine compliance with emission standards.

(39) “Warrantable Condition” means any condition of an engine which triggers the responsibility of the manufacturer to take corrective action pursuant to applicable defects warranty provisions.

(40) “Warranted Part” means any emissions-related part installed on a engine by the equipment or engine manufacturer, or installed in a warranty repair, which is listed on the warranty parts list.

(41) “Warranty period” means the period of time, either in years or hours of operation, that the engine or part is covered by the warranty provisions.

(42) “Warranty station” means a service facility authorized by the equipment or engine manufacturer to perform warranty repairs. This shall include all manufacturer distribution centers which are franchised to service the subject equipment or engines.

Note: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code.
Reference: Sections 39002, 39003, 43000, 43000.5, 43013, and 43018, Health and Safety Code.

§ 2472. Air Pollution Control and Modification Devices.

- (a) No person shall install, sell, offer for sale, or advertise any device, apparatus, or mechanism intended for use with, or as a part of, any required off-road vehicle, engine, or equipment pollution control device or system which alters or modifies the original design or performance of any such pollution control device or system.
- (b) No person shall operate or maintain in a condition of readiness for operation any off-road vehicle, engine, or equipment which is required to be equipped with a pollution control device under Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code or with any other certified off-road vehicle, engine, or equipment pollution control device required by any other state law or any rule or regulation adopted pursuant to such law, or required to be equipped with an off-road vehicle, engine, or equipment pollution control device pursuant to the Clean Air Act (42 U.S.C.1857 et seq.) and the standards and regulations promulgated thereunder, unless it is equipped with the required off-road vehicle, engine, or equipment pollution control device which is correctly installed and in operating condition. No person shall disconnect, modify, or alter any such required device.
- (c) This section shall not apply to an alteration, modification, or modifying device, apparatus, or mechanism found by resolution of the State Air Resources Board to do either of the following:
 - (1) Not to reduce the effectiveness of any required off-road vehicle, engine, or equipment pollution control device.
 - (2) To result in emissions from any such modified or altered off-road vehicle, engine, or equipment which are at levels which comply with existing state or federal standards for that model-year of the vehicle, engine or equipment being modified or converted.

Note: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code. Sections 27156, 38390, 38391 and 38395, Vehicle Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017 and 43018, Health and Safety Code.

§ 2473. Replacement Parts.

- (a) Any replacement part subject to the provisions of this article shall be presumed to be in compliance with this article unless the executive officer makes a finding to the contrary pursuant to Section 2475(a).
- (b) The manufacturer of any replacement part subject to the provisions of this article shall maintain sufficient records, such as performance specifications, test data, or other

information, to substantiate that such a replacement part is in compliance with this article. Such records shall be open for reasonable inspection by the executive officer or his/her representative. All such records shall be maintained for four years from the year of manufacture of the replacement part.

Note: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code.
Reference: Sections 39002, 39003, 39500, 43000, 43000.5, 43013, 43017, and 43018, Health and Safety Code; Sections 27156, 38391 and 38395, Vehicle Code.

§ 2474. Add-On Parts and Modified Parts.

- (a) As used in this section, the terms *advertise* and *advertisement* include, but are not limited to, any notice, announcement, information, publication, catalog, listing for sale, or other statement concerning a product or service communicated to the public for the purpose of furthering the sale of the product or service.
- (b)
 - (1) Except for publishers as provided in subsection 3, no person or company doing business solely in California or advertising only in California shall advertise any device, apparatus, or mechanism which alters or modifies the original design or performance of any required off-road vehicle, engine, or equipment pollution control device or system unless such part, apparatus, or mechanism has been exempted from Vehicle Code (VC) Sections 27156, 38391 or California Code of Regulations (CCR), Title 13, Section 2472, and the limitations of the exemption, if any, are contained within the advertisement in type size to give reasonable notice of such limitations.
 - (2) Except for publishers as provided in subsection 3, no person or company doing business in interstate commerce shall advertise in California any device, apparatus, or mechanism which alters or modifies the original design or performance of any required off-road vehicle, engine, or equipment pollution control device or system and is not exempted from VC Sections 27156, 38391 or CCR, Title 13, Section 2472, unless each advertisement contains a legally adequate disclaimer in type size adequate to give reasonable notice of any limitation on the sale or use of the device, apparatus, or mechanism.
 - (3) No publisher, after receipt of notice from the state board or after otherwise being placed on notice that the advertised part is subject to and has not been exempted from the provisions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472, shall make or disseminate or cause to be made or disseminated before the public in this state any advertisement for add-on or modified parts subject to the provisions of this article, which have not been exempted from VC Sections 27156, 38391 or CCR, Title 13, Section 2472, unless such advertisement clearly

and accurately states the legal conditions, if any, on sale and use of the parts in California.

- (4) The staff of the state board shall provide, upon request, model language which satisfies these requirements.
- (c) No person shall advertise, offer for sale, or install a part as an off-road vehicle, engine, or equipment pollution control device or as an exempted device, when in fact such part is not an off-road vehicle, engine, or equipment pollution control device or is not approved or exempted by the state board.
- (d) No person shall advertise, offer for sale, sell, or install an add-on or modified part as a replacement part.
- (e) The executive officer may exempt add-on and modified parts based on an evaluation conducted in accordance with the Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories, adopted _____.
- (f) Each person engaged in the business of retail sale or installation of an add-on or modified part which has not been exempted from VC Sections 27156, 38391 or CCR, Title 13, Section 2472 shall maintain records of such activity which indicate date of sale, purchaser name and address, vehicle, engine, or equipment model and work performed if applicable. Such records shall be open for reasonable inspection by the executive officer or his/her representative. All such records shall be maintained for four years from the date of sale or installation.
- (g) A violation of any of the prohibitions set forth in this section shall be grounds for the executive officer to invoke the provisions of section 2476.
- (h)
 - (1) The executive officer shall exempt new aftermarket non-original equipment catalytic converters for off-road vehicles, engines, and equipment from the prohibitions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472 based on an evaluation conducted in accordance with the California Evaluation Procedures for New Aftermarket Non-Original Equipment Catalytic Converters for Off-Road Vehicles, Engines, and Equipment, adopted _____.
 - (2) No person shall install, sell, offer for sale or advertise any new non-original equipment aftermarket catalytic converter for off-road vehicles, engines, and equipment in California that has not been exempted pursuant to the procedures provided in this subsection.
 - (3) For the purposes of this regulation, a new non-original equipment aftermarket catalytic converter for off-road vehicles, engines, and equipment is a catalytic converter

which is constructed of all new materials and is not a replacement part as defined in Title 13, CCR, Section 1900, or which includes any new material or construction which is not equivalent to the materials or construction of the original equipment converter for off-road vehicles, engines, and equipment.

(i)

(1) No person shall install, sell, offer for sale or advertise any used catalytic converter for off-road vehicles, engines, or equipment in California unless such catalytic converter has been exempted pursuant to the Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories, adopted _____.

(2) No person shall install, sell, offer for sale or advertise, any recycled or salvaged used catalytic converter for off-road vehicles, engines, and equipment in California unless such converters have been exempted from the prohibitions of VC Sections 27156, 38391 or CCR, Title 13, Section 2472 pursuant to the procedures provided in this subsection.

(3) For the purposes of this regulation, a used catalytic converter for off-road vehicles, engines, and equipment is a catalytic converter which is not a new aftermarket non-original equipment catalytic converter for off-road vehicles, engines, and equipment as defined in subsection (h)(3).

Note: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code.
Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017, and 43018, Health and Safety Code; Sections 27156, 38391 and 38395, Vehicle Code.

§ 2475. Surveillance.

- (a) Replacement parts. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit any records relating to such part which are maintained pursuant to section 2473(b) above. The executive officer may order, for cause, the manufacturer of any replacement part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for testing and evaluation. If, after a review of all records submitted by the manufacturer and of the results of any tests conducted by the state board's staff, the executive officer finds that such part is not in fact a replacement part, the executive officer may invoke section 2476. Replacement parts evaluated pursuant to this section shall be compared with the specifications contained in the applicable off-road vehicle, engine or equipment manufacturer's application for certification.
- (b) Add-on parts and modified parts. The executive officer may order, for cause, the manufacturer of any add-on part or modified part subject to the provisions of this article to submit a reasonable number of parts typical of the manufacturer's production for

testing and evaluation. In-use performance will also be evaluated. If, after a review of the results of any tests or evaluations conducted by the state board's staff and of any information submitted by the manufacturer, the executive officer finds that an add-on part or a modified part does not conform to the "Procedures for Exemption of Add-On and Modified Parts for Off-Road Categories", adopted _____, the executive officer may invoke Section 2476.

Note: Authority cited: Sections 39600, 39601, 43013, and 43018, Health and Safety Code.
Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017, and 43018, Health and Safety Code; Sections 27156, 38391 and 38395, Vehicle Code.

§ 2476. Enforcement Action.

- (a) When this section is invoked pursuant to other sections of this article, the executive officer may issue a cease and desist order and may require the person to submit a plan for correcting any deficiencies found by the state board. The executive officer may order any of the actions contained in the plan, and/or may declare a part to be not in compliance with VC Sections 27156, 38391 or CCR, Title 13, Section 2472 unless he/she finds the plan adequate to correct the deficiencies found by the state board. The plan may be required to include such corrective actions as the cessation of sale of non-complying parts, the recall of any non-complying parts already sold, and corrective advertising to correct misleading information regarding the emission control capabilities of the device and to ensure compliance with California's laws. The executive officer may also seek fines for violations of VC Sections 27156, 38391 or CCR, Title 13, Section 2472, or other laws or regulations, as applicable.
- (b) When this section is invoked by the executive officer on either his/her own initiative or in response to complaints received, an investigation may be made by the executive officer or his/her representative to gather evidence regarding continuing violations of this article by any person engaged in the business of advertising, offering for sale, selling, or installing an add-on or modified part.
- (c) Any person against whom enforcement action (other than the filing of an action in court) is initiated pursuant to this section may request a public hearing to review the enforcement action.
- (d) Nothing in this article shall prohibit the executive officer from taking any other action provided for by law, including the prosecution of an action in court.

Note: Authority cited: Sections 39515, 39516, 39600, 39601, 43013, and 43018, Health and Safety Code. Reference: Sections 39002, 39003, 43000, 43000.5, 43013, 43017, and 43018, Health and Safety Code; Sections 27156, 38391 and 38395, Vehicle Code.

